

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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EDWARD PITRE,

Plaintiff,

- against -

THE CITY OF NEW YORK, FIRE DEPARTMENT OF
THE CITY OF NEW YORK, JAN BORODO,
individually, and JOSEPH M. MASTROPIETRO,
individually,

Defendants.

**JOINT PROPOSED
VERDICT FORM**

18-CV-5950 (DC)¹

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VERDICT FORM

*All jurors must agree on the answers to all questions. Please **CHECK (✓)** your answers and fill in the blanks.*

Plaintiff's proposed verdict sheet

SHRL/CHRL DISABILITY DISCRIMINATION

Question 1

Did Defendants unlawfully deny Mr. Pitre a reasonable accommodation for his disability?

YES _____ NO _____

PROCEED TO QUESTION 2.

FMLA INTERFERENCE

Question 2

¹ The parties have highlighted points of disagreement as follows: language that defendants object to is italicized and language that plaintiff objects to is underlined.

Did Defendants deny Mr. Pitre medical leave he was entitled to under the Family and Medical Leave Act?

YES _____ NO _____

IF THIS ANSWER WAS “YES” PROCEED TO QUESTION 3. IF THE ANSWER WAS “NO” PROCEED TO QUESTION 4

Question 3

Was Defendants’ denial of FMLA leave to Mr. Pitre willful, or done with reckless indifference to Mr. Pitre’s rights under the FMLA?

YES _____ NO _____

FMLA RETALIATION

Question 4

Did Defendants retaliate against Mr. Pitre because he requested or took leave he was entitled to under the FMLA?

YES _____ NO _____

IF THIS ANSWER WAS “YES” PROCEED TO QUESTION 5. IF THIS ANSWER WAS “NO” PROCEED TO QUESTION 6

Question 5

Was Defendants’ retaliation against Mr. Pitre for requesting or taking FMLA leave willful or done with reckless indifference to Mr. Pitre’s FMLA rights?

YES _____ NO _____

PLEASE PROCEED TO QUESTION 6.

RACE DISCRIMINATION

Question 6

Did Defendants unlawfully discriminate against Mr. Pitre based on his race?

YES _____ NO _____

PROCEED TO QUESTION 6.

CHRL HOSTILE WORK ENVIRONMENT

Question 6

Did Defendants subject Mr. Pitre to a hostile work environment based on his disability or race?

YES _____ NO _____

PROCEED TO QUESTION 7.

SHRL/CHRL RETALIATION

Question 7

Did Defendants unlawfully retaliate against Mr. Pitre for his 2011 lawsuit, or his requests for reasonable accommodation?

YES _____ NO _____

IF YOU ANSWERED “NO” TO ALL THE QUESTIONS ABOVE, YOUR DELIBERATIONS ARE FINISHED. THE FOREPERSON SHOULD SIGN THE LAST PAGE AND RETURN THE VERDICT FORM TO THE COURT.

IF YOU ANSWERED “YES” TO ANY OF THE QUESTIONS ABOVE, PLEASE PROCEED TO QUESTION 8.

Question 8

(a) What is the amount you award for Mr. Pitre’s emotional distress?

\$ _____

(b) What is the amount you award for Mr. Pitre's economic damages?

\$ _____

(c) What is the amount you award to Mr. Pitre in punitive damages against Defendants Borodo and Mastropietro?

\$ _____

YOU HAVE REACHED A VERDICT. THE FOREPERSON SHOULD DATE AND SIGN THE VERDICT FORM, PLACE IT IN A SEALED ENVELOPE MARKED "VERDICT" AND HAND IT TO THE MARSHALL.

Your foreperson must now sign and date the verdict sheet.

Signature of Foreperson

DEFENDANTS PROPOSED VERDICT SHEET²

SHRL/CHRL DISABILITY DISCRIMINATION

Question 1

Did Plaintiff prove by a preponderance of the credible evidence that any of the below Defendants unlawfully discriminated against him based on his disability?

City of New York: YES _____ NO _____

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

PROCEED TO QUESTION 2.

FMLA INTERFERENCE³

Question 2

Did plaintiff prove by a preponderance of the credible evidence that any of the below Defendants interfered with his rights under the Family and Medical Leave Act?

City of New York: YES _____ NO _____

² Defendants note that the verdict sheets could not be combined to be filed jointly because Plaintiff provided Defendants with his proposals to the verdict sheet at 5:17 p.m. today, leaving Defendants with no time to meaningfully review Plaintiff's proposals before the end of the workday. Additionally, Defendants note that Plaintiff's proposed verdict sheet improperly combines the claims against all Defendants.

Plaintiff notes that Defendants cite to no authority that combining defendants is improper, because it is not, (it simplifies the verdict sheet for the jurors reducing the likelihood of confusion and hung jury, and eliminates instructions that are properly contained in the jury instructions. Plaintiff also notes that he offered to review and revise subject to an additional one-day proposed extension, and that Defendants sent their draft to Plaintiff 6:17 PM today leaving Plaintiff no time to respond to Defendants' proposed revisions, and declined to respond to offers to discuss over the phone to resolve discrepancies earlier in the day or seek an extension of another day to do so.

³ Defendants submit that plaintiff's FMLA claims are time barred and should not proceed to trial.

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

PROCEED TO QUESTION 3.

FMLA RETALIATION

Question 3

Did plaintiff prove by a preponderance of the credible evidence that any of the below Defendants retaliated against him because he engaged in Family and Medical Leave Act protected activity?

City of New York: YES _____ NO _____

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

PLEASE PROCEED TO QUESTION 4.

RACE DISCRIMINATION

Question 4

Did Plaintiff Pitre prove by a preponderance of the credible evidence that any of the below Defendants unlawfully discriminated against him based on his race?

City of New York: YES _____ NO _____

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

PROCEED TO QUESTION 5.

CHRL HOSTILE WORK ENVIRONMENT

Question 5

Did plaintiff prove by a preponderance of the credible evidence that he was subjected to a hostile work environment based on disability by any of the Defendants listed below??

City of New York: YES _____ NO _____

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

PROCEED TO QUESTION 6.

Question 6

Did plaintiff prove by a preponderance of the credible evidence that he was subjected to a hostile work environment based on race by any of the Defendants listed below?

City of New York: YES _____ NO _____

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

PROCEED TO QUESTION 7.

SHRL/CHRL RETALIATION

Question 7

Did Plaintiff prove by a preponderance of the credible evidence that any of the below listed Defendants unlawfully retaliated against him for engaging in protected activity?

City of New York: YES _____ NO _____

Jan Borodo: YES _____ NO _____

Joseph M. Mastropietro: YES _____ NO _____

IF YOU ANSWERED “NO” TO ALL THE QUESTIONS ABOVE, YOUR DELIBERATIONS ARE FINISHED. THE FOREPERSON SHOULD SIGN THE LAST PAGE AND RETURN THE VERDICT FORM TO THE COURT.

IF YOU ANSWERED “YES” TO ANY OF THE QUESTIONS ABOVE, PLEASE PROCEED TO QUESTION 8.

Question 8

Did Plaintiff prove by a preponderance of the evidence that he suffered compensatory damages as a result of any Defendants' unlawful conduct?

_____ Yes _____ No _____

If you answered "YES," continue to Question 9(a) and 9(b), and skip Question 9(c). If you answered "NO," skip Question 9(a) and 9(b) and continue to Question 9(c).

Question 9

(a) If you answered "Yes" to Question 8, state the dollar amount of emotional distress damages Plaintiff has proven that she sustained that were proximately caused by defendant(s):

\$ _____

(b) If you answered "Yes" to Question 8, state the dollar amount of economic damages Plaintiff has proven that she sustained that were proximately caused by defendant(s):

\$ _____

(c) If you answered "No" to Question 8, state the amount of nominal damages to be awarded to the Plaintiff not to exceed one dollar:

\$ _____

YOU HAVE REACHED A VERDICT. THE FOREPERSON SHOULD DATE AND SIGN THE VERDICT FORM, PLACE IT IN A SEALED ENVELOPE MARKED "VERDICT" AND HAND IT TO THE MARSHALL.

Your foreperson must now sign and date the verdict sheet.

Signature of Foreperson